

ESTTA Tracking number: **ESTTA523921**

Filing date: **02/27/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	OCV Intellectual Capital, LLC
Granted to Date of previous extension	02/27/2013
Address	One Owens Corning Parkway Toledo, OH 43659 UNITED STATES
Attorney information	Gary D. Krugman 2100 Pennsylvania Ave., N.W. Washington, DC 20037 UNITED STATES Gkrugman@sughrue.com, darlene.portnoy@owenscorning.com, trademarks@nissan-usa.com

Applicant Information

Application No	85608422	Publication date	10/30/2012
Opposition Filing Date	02/27/2013	Opposition Period Ends	02/27/2013
Applicant	Made in Mars, Inc. PO BOX 5743 Hacienda Heights, CA 91745 UNITED STATES		

Goods/Services Affected by Opposition

Class 028. First Use: 2009/10/04 First Use In Commerce: 2010/10/27

Opposed goods and services in the class: Bags especially designed for surfboards; Bags for skateboards; Ball bearings for skateboards; Body boards; Flying discs; Harnesses specially adapted for carrying skis and skateboards; Kits for building surfboards; Leashes for surfboards; Nuts and bolts for skateboards; Paddle surfboards; Paddles for use with surfboards; Plush dolls; Protective padding for skateboarding; Skateboard decks; Skateboard grip tapes; Skateboard rails; Skateboard riser pads; Skateboard trucks; Skateboard wax; Skateboard wheels; Skateboards; Skim boards; Snow sleds for recreational use; Stuffed and plush toys; Stuffed toy animals; Stuffed toys; Surfboard carrier worn on the body; Surfboard fins; Surfboard holder worn on the body; Surfboard leashes; Surfboard repair patches; Surfboard storage rack; Surfboard traction pads; Surfboard wax; Surfboards; Toy action figures; Toy action figures and accessories therefor; Toy vehicles; Toy vehicles and accessories therefor; Traction pads for surfboards; Water pistols; Water squirting toys; Waxing brushes for skiing

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	1798617	Application Date	05/09/1990
Registration Date	10/12/1993	Foreign Priority Date	NONE
Word Mark	QUEST		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: First Use: 1992/07/01 First Use In Commerce: 1992/07/01 motor vehicles; namely, vans		

Attachments	D3120 Notice of Opposition (February 27, 2013) .pdf (5 pages)(35679 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Gary D. Krugman/
Name	Gary D. Krugman
Date	02/27/2013

In re the Matter of:

Applicant.

Opposition No. _____

NOTICE OF OPPOSITION

3. It is common in the automotive field that trademarks used in connection with automobiles, vans and the like are often licensed for use in connection with toy vehicles. This is a zone of natural expansion for automobile manufacturers and consumers familiar with automobiles and vans sold under the manufacturers' trademark would, upon encountering toy

vehicles sold under the same mark, be likely to believe that all of these products emanate from the same source.

4. Opposer's exclusive licensee of the QUEST trademark for vans has filed an application to register the trademark QUEST for "toy motor vehicles, toys and playthings, namely, die cast toy motor vehicles, battery operated remote control motor vehicles, plastic model hobby craft kits for constructing toy and scale motor vehicles; light and sound toy vehicles, namely, miniature motor vehicles with LED lights; plus toys; ride-on toy motor vehicles." This application has been assigned Serial No. 85859896 and is pending in the U.S. Patent and Trademark Office.

5. On April 25, 2012, Applicant filed an application to register the mark QUEST BOARDS (BOARDS disclaimed) for goods described as "bags, especially designed for surfboards; bags for skateboards; ball bearings for skateboards; body boards; flying discs; harnesses especially adapted for carrying skis and skateboards; kits for building surfboards; leashes for surfboards; nuts and bolts for skateboards; paddle surfboards; paddles for use with surfboards; plush dolls; protective padding for skateboarding; skateboard decks; skateboard grip tape; skateboard rails; skateboard riser pads; skateboard trucks; skateboard wax; skateboard wheels; skateboards; skin boards; snow sleds for recreational use; stuffed and plush toys; stuffed toy animals; stuffed toys; surfboard carrier worn on the body; surfboard fins; surfboard holder worn on the body; surfboard leashes; surfboard repair patches; surfboard storage racks; surfboard traction pads; surfboard wax; surfboards; toy action figures; toy action figures and accessories therefor; toy vehicles; toy vehicles and accessories therefor; traction pads for surfboards; water pistols; water squirting toys; waxing brushes for skiing." The application was filed based on Applicant's use in commerce, with a date of first use in commerce stated as October 27, 2010.

6. Certain items in the description of goods in Applicant's application, specifically "stuffed and plush toys; stuffed toys; toy vehicles; toy vehicles and accessories therefor" are believed to be similar to or related to Opposer's QUEST vans, insofar as consumers would believe that stuffed toys and plush toys and toy vehicles and toy vehicle accessories sold under Applicant's mark would originate with, be sponsored by, approved by or endorsed by Opposer, when such is not the case.

7. On information and belief, Applicant had not used, as of the application filing date, the trademark QUEST BOARDS in connection with "stuffed and plush toys; stuffed toys; toy vehicles; toy vehicles and accessories therefor."

8. Applicant's mark QUEST BOARDS so resembles Opposer's previously used and registered mark QUEST for related goods such that the use of Applicant's mark when applied to the goods of Applicant, specifically, stuffed and plush toys, stuffed toys, toy vehicles and accessories therefor, would be likely to result in confusion, mistake or deception for purposes of Section 2(d) of the Trademark Act.

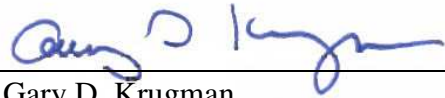
9. Applicant's application, based on use in commerce, included a declaration which falsely stated that the mark was used, at least as early as the application filing date, in connection with "stuffed and plush toys; stuffed toys; toy vehicles; toy vehicles and accessories therefor." As no use of the mark in connection with these goods was made as of the application filing date, the application is void *ab initio*, at least with respect to these specific goods and any use of the mark in connection with these goods has been abandoned.

WHEREFORE, it is respectfully requested that the opposition be sustained and that registration to Applicant be refused.

Please withdraw the necessary fees from Deposit Account No. 500594.

Respectfully submitted,

OCV INTELLECTUAL CAPITAL, LLC

By: 

Gary D. Krugman

Attorney for Opposer

SUGHRUE MION, PLLC

2100 Pennsylvania Avenue, N.W.

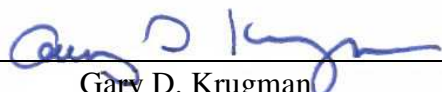
Washington, DC 20037-3213

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing NOTICE OF OPPOSITION has been mailed this 27th day of February 2013, by first-class mail, postage prepaid to:

Made In Mars, Inc.
PO Box 5743
Hacienda Heights, California 91745-0743



Gary D. Krugman